

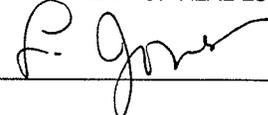
**FILED**

**December 3, 2011**

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000

DEPARTMENT OF REAL ESTATE

4 Telephone: (916) 227-0789

By 

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6  
7 STATE OF CALIFORNIA  
8 DEPARTMENT OF REAL ESTATE  
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10 To:

11 PERFORMANCE 1, JENEAN TAYLOR,  
12 JAMES LEE SACCO, and  
13 DANIEL GONZALEZ

No. H-5725 SAC

ORDER TO DESIST AND REFRAIN  
(B&P Code Section 10086)

14  
15 The Commissioner of the California Department of Real Estate (hereinafter  
16 "Department") has caused an investigation to be made of the activities of PERFORMANCE 1,  
17 JENEAN TAYLOR (hereinafter "TAYLOR"), JAMES LEE SACCO (hereinafter "SACCO"),  
18 and DANIEL GONZALEZ (hereinafter "GONZALEZ"). Based on that investigation, the  
19 Commissioner has determined that PERFORMANCE 1, TAYLOR, SACCO, and GONZALEZ  
20 has engaged in, is engaging in, or is attempting to engage in, acts or practices constituting  
21 violations of the California Business and Professions Code (hereinafter "the Code") and/or Title  
22 10, Chapter 6, California Code of Regulations (hereinafter "the Regulations"), including the  
23 business of, acting in the capacity of, and/or advertising or assuming to act as, a real estate  
24 broker in the State of California within the meaning of Sections 10131(d) (performing services  
25 for borrowers and/or lenders in connection with loans secured by real property) and 10131.2  
26 (real estate broker license required to charge and collect an advance fee) of the Code.  
27 Furthermore, based on the investigation, the Commissioner hereby issues the following Findings

1 of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086  
2 of the Code.

3 Whenever acts referred to below are attributed to PERFORMANCE 1, those acts  
4 are alleged to have been done by TAYLOR, SACCO, and/or GONZALEZ, acting by themselves,  
5 or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, and using  
6 the name "PERFORMANCE 1", "PERFORMANCE 1 LLC", or other names or fictitious names  
7 unknown at this time.

### 8 FINDINGS OF FACT

9 1. PERFORMANCE 1 is a fictitious business name registered to TAYLOR  
10 in the County of Orange. At no time mentioned has PERFORMANCE 1 been licensed by the  
11 Department in any capacity.

12 2. At no time has TAYLOR been licensed by the Department in any  
13 capacity.

14 3. At no time has SACCO been licensed by the Department in any capacity.

15 4. At no time has GONZALEZ been licensed by the Department in any  
16 capacity.

17 5. During the period of time set forth below, PERFORMANCE 1, TAYLOR,  
18 SACCO, and GONZALEZ solicited borrowers and negotiated to do one or more of the following  
19 acts for another or others, for or in expectation of compensation; negotiate one or more loans for,  
20 or perform services for, borrowers and/or lenders in connection with loans secured directly or  
21 collaterally by one or more liens on real property; and charge, demand or collect an advance fee  
22 for any of the services offered.

23 6. Beginning in April 2010, TAYLOR and SACCO, as representatives of  
24 PERFORMANCE 1, solicited Pamela B. (hereinafter "Pamela") in order to provide a loan  
25 modification and negotiation services on behalf of Pamela in connection with a loan secured by  
26 real property located at 2401 El Pavo Way, Rancho Cordova, California.

27 7. On or about April 28, 2010, April 29, 2010, and June 28, 2010, SACCO,

1 as a representative of PERFORMANCE 1, demanded and received an advance fee of \$2,475  
2 from Pamela for the activities described in Paragraph 6.

3 8. On or about June 27, 2011, GONZALEZ, as a representative of  
4 PERFORMANCE 1, solicited Deputy Commissioner Kristy R. (hereinafter "Kristy") in order to  
5 provide loan modification and negotiation services on behalf of Kristy in connection with a loan  
6 secured by real property. GONZALEZ demanded a fee of \$3,500 to \$3,800 from Kristy, half of  
7 which would be due in advance.

8 CONCLUSIONS OF LAW

9 9. Based on the findings of fact contained in paragraphs 1 through 8,  
10 PERFORMANCE 1, TAYLOR, SACCO, and GONZALEZ solicited one or more borrowers to  
11 perform services for those borrowers and/or those borrowers' lenders in connection with loans  
12 secured directly or collaterally by one or more liens on real property located within the State of  
13 California, and charged, demanded or collected advance fees for the services to be provided,  
14 which acts require a real estate broker license under Sections 10131(d) (real estate license  
15 required for enumerated acts) and 10131.2 (real estate broker license required to charge or  
16 collect an advance fee) of the Code, in violation of Section 10130 of the Code.

17 10. PERFORMANCE 1, TAYLOR, SACCO, and GONZALEZ used a form  
18 of advance fee agreement which had not been provided to the Department for its prior review  
19 and consideration, in violation of Section 10085 of the Code (prior submission of advance fee  
20 materials required) and Section 2970 (details for prior submission of advance fee materials) of  
21 the Regulations.

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DESIST AND REFRAIN ORDER

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2           Based on the Findings of Fact and Conclusions of Law stated herein,  
3 PERFORMANCE 1, TAYLOR, SACCO, and GONZALEZ, whether doing business under your  
4 own name, or any other name or fictitious name, ARE HEREBY ORDERED to:

5           1.       Immediately desist and refrain from performing any acts within the State  
6 of California for which a real estate broker license is required. In particular, you are ordered to  
7 desist and refrain from soliciting borrowers and/or performing services for borrowers or lenders  
8 in connection with loans secured directly or collaterally by one or more liens on real property,  
9 unless and until you obtain a real estate broker license issued by the Department.

10           2.       Immediately desist and refrain from charging, demanding, claiming,  
11 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code,  
12 for any of the services you offer to others, unless and until you demonstrate and provide  
13 evidence satisfactory to the Commissioner that you are properly licensed by the Department as a  
14 real estate broker, and that PERFORMANCE 1, TAYLOR, SACCO, and GONZALEZ:

15                   (A)     Have an advance fee agreement which has been submitted to the  
16 Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

17                   (B)     Have placed all previously collected advance fees into a trust account  
18 for that purpose and are in compliance with Section 10146 of the Code;

19                   (C)     Have provided an accounting to trust fund owner-beneficiaries  
20 pursuant to Section 2972 of the Regulations; and,

21                   (D)     Are in compliance with California law, as amended effective as of  
22 October 11, 2009, with respect to loan modification and/or forbearance services. Under the  
23 amended law, you can only collect advance fees for loan modification or other mortgage loan  
24 forbearance services related to commercial loans and loans for residential properties  
25 containing five or more dwelling units.

26           3.       Immediately desist and refrain from demanding, claiming, collecting and/or  
27 receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and

1 under any conditions, with respect to the performance of loan modification or any other form of  
2 mortgage loan forbearance services in connection with loans on residential property containing  
3 four or fewer dwelling units.

4 DATED: 11/14/11

6 BARBARA J. BIGBY  
7 Real Estate Commissioner

8 By   
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11 **- NOTICE -**

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13 Business and Professions Code Section 10139 provides that "Any person acting as a real  
14 estate broker or real estate salesperson without a license or who advertises using words indicating  
15 that he or she is a real estate broker without being so licensed shall be guilty of a public offense  
16 punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by imprisonment in the  
17 county jail for a term not to exceed six months, or by both fine and imprisonment; or if a  
18 corporation, be punished by a fine not exceeding sixty thousand dollars (\$60,000)."  
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